

## HOUSE BILL NO. 69

INTRODUCED BY BARRETT

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THE FINDINGS AND PURPOSE FOR FUNDING THE WATER RIGHT CLAIMS EXAMINATION PROCESS; ~~PROVIDING BENCHMARKS AND ACTION, INCLUDING THE ELIMINATION OF THE APPROPRIATION FOR FUNDING CLAIMS EXAMINATION, THAT MUST BE TAKEN IF BENCHMARKS ARE NOT MET BY THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION;~~ ESTABLISHING A WATER ADJUDICATION STATE SPECIAL REVENUE ACCOUNT; ~~PROVIDING FUNDING FOR CLAIMS EXAMINATION THROUGH THE RESOURCE INDEMNITY TRUST;~~ REQUIRING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND THE WATER COURT TO REPORT TO THE ENVIRONMENTAL QUALITY COUNCIL AND THE APPLICABLE LEGISLATIVE APPROPRIATION SUBCOMMITTEES; ~~AMENDING SECTION 15-38-202, MCA;~~ AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Findings -- purpose.** (1) Montana's water is critical to economic development and economic stability of its citizens. Therefore, it is urgent that Montana's water rights be adjudicated and quantified in a timely and accurate manner.

(2) The department must be accountable to the water users of Montana and is responsible for completing claims examination in a timely and accurate manner.

(3) The completion of Montana's water adjudication is vital to the future of our state. Water users who filed their water right claims, pursuant to law, have the right to have their water rights quantified and made part of a decree. As water use and demands for water increase, it is imperative that water users have the option of enforcing their decree as a tool to help manage water in their area.

~~(4) The purpose of [sections 1 through 4] is to provide revenue to adequately fund the department's claims examination portion of the adjudication program.~~

~~(5)~~(4) With adequate funding, it is realistic and feasible for the department to complete claims examination by June 30, 2015.

~~NEW SECTION. Section 2. Benchmarks -- action taken if not met. (1) The completion of initial claims examination is of a higher priority than reexamination of claims that were subject to the verification process unless the chief water judge issues an order making reexamination a higher priority as provided in subsection (3)(b).~~

~~(2) There are approximately 57,000 water right claims that were filed pursuant to 85-2-212 that must be examined.~~

~~(3) (a) The water court shall prioritize basins for the purpose of claims examination and reexamination by the department.~~

~~(b) The chief water judge has the authority to order that reexamination be completed for a certain basin in a higher priority than claims examination. If the chief water judge issues an order requiring the department to reexamine claims rather than examining claims, the number of claims that are reexamined must be counted against the amount of claims that the department is required to examine for that period.~~

~~(4) (a) The cumulative benchmarks that are provided in subsection (4)(b) must be met. If the benchmarks are not met, the funds deposited pursuant to 15-38-202(2) may not be appropriated the following year. All claims must be examined by June 30, 2015.~~

~~(b) The cumulative benchmarks are as follows:~~

<del>Date</del>	<del>Total number of claims examined</del>
<del>December 31, 2006</del>	<del>8,000</del>
<del>December 31, 2008</del>	<del>19,000</del>
<del>December 31, 2010</del>	<del>31,000</del>
<del>December 31, 2012</del>	<del>44,000</del>
<del>June 30, 2015</del>	<del>57,000</del>

**NEW SECTION. Section 2. Water adjudication state special revenue account -- limitations on appropriations from account.** (1) There is a water adjudication state special revenue account within the state special revenue fund established in 17-2-102.

~~(2) There must be paid into the water adjudication account money allocated from the resource indemnity trust fund interest earnings pursuant to 15-38-202.~~

~~(3)(2) Interest and income earnings on the water adjudication account must be deposited in the account.~~

~~(4)(3) Appropriations may be made from the water adjudication account for the sole purpose of funding~~

the department's portion of the water adjudication program.

**NEW SECTION. Section 3. Reporting requirements.** The department and the water court shall:

(1) provide reports to the environmental quality council at each meeting during the legislative interim on the progress of the adjudication;

(2) include a status report on the adjudication in their presentation to the applicable appropriation subcommittees during each legislative session; and

(3) provide a budget that outlines how each of the entities will be funded in the next biennium, including general fund money and state special revenue funds.

~~Section 5. Section 15-38-202, MCA, is amended to read:~~

~~"15-38-202. (Temporary) Investment of resource indemnity trust fund -- expenditure -- minimum balance. (1) All money paid into the resource indemnity trust fund must be invested at the discretion of the board of investments. Only the net earnings, excluding unrealized gains and losses, may be appropriated and expended until the fund balance, excluding unrealized gains and losses, reaches \$100 million. After the fund balance reaches \$100 million, all net earnings, excluding unrealized gains and losses, and all receipts may be appropriated by the legislature and expended, provided that the fund balance, excluding unrealized gains and losses, may never be less than \$100 million.~~

~~(2) (a) At the beginning of each fiscal year, there is allocated from the interest income of the resource indemnity trust fund:~~

~~(i) \$240,000, which is statutorily appropriated, as provided in 17-7-502, to be deposited into the renewable resource grant and loan program state special revenue account to support the operations of the environmental science water quality instructional programs at Montana state university-northern, to be used for support costs, for matching funds necessary to attract additional funds to further expand statewide impact, and for enhancement of the facilities related to the programs. Any amount of the appropriation in this subsection (2)(a)(i) that is not pledged to repay bonds issued prior to January 1, 1999, may be deposited in a permanent fund account, the income from which may be used for the purposes provided in this subsection.~~

~~(ii) \$2 million to be deposited into the renewable resource grant and loan program water adjudication state special revenue account, created by 85-1-604 [section 3], for the purpose of making grants funding water right claims examination by the department of natural resources and conservation;~~

1 ~~——— (iii) for the fiscal year beginning July 1, 2002, through the fiscal year ending June 30, 2005, \$1.2 million~~  
2 ~~and for fiscal years beginning on or after July 1, 2005, \$1.5 million to be deposited into the reclamation and~~  
3 ~~development grants special revenue account, created by 90-2-1104, for the purpose of making grants;~~

4 ~~——— (iv) \$300,000 to be deposited into the ground water assessment account created by 85-2-905; and~~

5 ~~——— (v) for the fiscal year beginning July 1, 2002, through the fiscal year ending June 30, 2005, \$350,000~~  
6 ~~and for fiscal years beginning on or after July 1, 2005, \$500,000 to the department of fish, wildlife, and parks~~  
7 ~~for the purposes of 87-1-283. The future fisheries review panel shall approve and fund qualified mineral~~  
8 ~~reclamation projects before other types of qualified projects.~~

9 ~~——— (b) At the beginning of each biennium, there is allocated from the interest income of the resource~~  
10 ~~indemnity trust fund:~~

11 ~~——— (i) an amount not to exceed \$175,000 to the environmental contingency account pursuant to the~~  
12 ~~conditions of 75-1-1101;~~

13 ~~——— (ii) an amount not to exceed \$50,000 to the oil and gas production damage mitigation account pursuant~~  
14 ~~to the conditions of 82-11-161; and~~

15 ~~——— (iii) \$500,000 to be deposited into the water storage state special revenue account created by 85-1-631.~~

16 ~~——— (c) The remainder of the interest income is allocated as follows:~~

17 ~~——— (i) For the fiscal year beginning July 1, 2002, through the fiscal year ending June 30, 2005, 25.5% and~~  
18 ~~for fiscal years beginning on or after July 1, 2005, 30% of the interest income of the resource indemnity trust fund~~  
19 ~~must be allocated to the renewable resource grant and loan program state special revenue account created by~~  
20 ~~85-1-604.~~

21 ~~——— (ii) For the fiscal year beginning July 1, 2002, through the fiscal year ending June 30, 2005, 22% and~~  
22 ~~for fiscal years beginning on or after July 1, 2005, 26% of the interest income of the resource indemnity trust fund~~  
23 ~~must be allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.~~

24 ~~——— (iii) For the fiscal year beginning July 1, 2002, through the fiscal year ending June 30, 2005, 45% and~~  
25 ~~for fiscal years beginning on or after July 1, 2005, 35% of the interest income from the resource indemnity trust~~  
26 ~~fund must be allocated to the reclamation and development grants account provided for in 90-2-1104.~~

27 ~~——— (iv) For the fiscal year beginning July 1, 2002, through the fiscal year ending June 30, 2005, 7.5% and~~  
28 ~~for fiscal years beginning on or after July 1, 2005, 9% of the interest income of the resource indemnity trust fund~~  
29 ~~must be allocated to the environmental quality protection fund provided for in 75-10-704.~~

30 ~~——— (3) Any formal budget document prepared by the legislature or the executive branch that proposes to~~

appropriate funds other than as provided for by the allocations in subsection (2) must specify the amount of money from each allocation that is proposed to be diverted and the proposed use of the diverted funds. A formal budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced bill, or a bill developed during the legislative appropriation process or otherwise during a legislative session. (Terminates July 1, 2009--sec. 9, Ch. 529, L. 1999.)

~~15-38-202. (Effective July 1, 2009) Investment of resource indemnity trust fund -- expenditure -- minimum balance.~~ (1) All money paid into the resource indemnity trust fund must be invested at the discretion of the board of investments. Only the net earnings, excluding unrealized gains and losses, may be appropriated and expended until the fund balance, excluding unrealized gains and losses, reaches \$100 million. After the fund balance reaches \$100 million, all net earnings, excluding unrealized gains and losses, and all receipts may be appropriated by the legislature and expended, provided that the fund balance, excluding unrealized gains and losses, may never be less than \$100 million.

~~(2) (a) At the beginning of each fiscal year, there is allocated from the interest income of the resource indemnity trust fund:~~

~~(i) \$240,000, which is statutorily appropriated, as provided in 17-7-502, to be deposited into the renewable resource grant and loan program state special revenue account to support the operations of the environmental science water quality instructional programs at Montana state university northern, to be used for support costs, for matching funds necessary to attract additional funds to further expand statewide impact, and for enhancement of the facilities related to the programs. Any amount of the appropriation in this subsection (2)(a)(i) that is not pledged to repay bonds issued prior to January 1, 1999, may be deposited in a permanent fund account, the income from which may be used for the purposes provided in this subsection.~~

~~(ii) \$2 million to be deposited into the renewable resource grant and loan program water adjudication state special revenue account, created by 85-1-604 [section 3], for the purpose of making grants funding water right claims examination by the department of natural resources and conservation;~~

~~(iii) \$1.5 million to be deposited into the reclamation and development grants special revenue account, created by 90-2-1104, for the purpose of making grants; and~~

~~(iv) \$300,000 to be deposited into the ground water assessment account created by 85-2-905.~~

~~(b) At the beginning of each biennium, there is allocated from the interest income of the resource indemnity trust fund:~~

~~(i) an amount not to exceed \$175,000 to the environmental contingency account pursuant to the~~

1 conditions of 75-1-1101;

2 ~~—— (ii) an amount not to exceed \$50,000 to the oil and gas production damage mitigation account pursuant~~  
3 ~~to the conditions of 82-11-161; and~~

4 ~~—— (iii) \$500,000 to be deposited into the water storage state special revenue account created by 85-1-631.~~

5 ~~—— (c) The remainder of the interest income is allocated as follows:~~

6 ~~—— (i) Thirty percent of the interest income of the resource indemnity trust fund must be allocated to the~~  
7 ~~renewable resource grant and loan program state special revenue account created by 85-1-604.~~

8 ~~—— (ii) Twenty-six percent of the interest income of the resource indemnity trust fund must be allocated to~~  
9 ~~the hazardous waste/CERCLA special revenue account provided for in 75-10-621.~~

10 ~~—— (iii) Thirty-five percent of the interest income from the resource indemnity trust fund must be allocated~~  
11 ~~to the reclamation and development grants account provided for in 90-2-1104.~~

12 ~~—— (iv) Nine percent of the interest income of the resource indemnity trust fund must be allocated to the~~  
13 ~~environmental quality protection fund provided for in 75-10-704.~~

14 ~~—— (3) Any formal budget document prepared by the legislature or the executive branch that proposes to~~  
15 ~~appropriate funds other than as provided for by the allocations in subsection (2) must specify the amount of~~  
16 ~~money from each allocation that is proposed to be diverted and the proposed use of the diverted funds. A formal~~  
17 ~~budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced~~  
18 ~~bill, or a bill developed during the legislative appropriation process or otherwise during a legislative session.~~  
19 ~~(Terminates June 30, 2014--sec. 5, Ch. 497, L. 1999.)~~

20 ~~—— **15-38-202. (Effective July 1, 2014) Investment of resource indemnity trust fund -- expenditure --**~~  
21 ~~**minimum balance.** (1) All money paid into the resource indemnity trust fund must be invested at the discretion~~  
22 ~~of the board of investments. Only the net earnings, excluding unrealized gains and losses, may be appropriated~~  
23 ~~and expended until the fund balance, excluding unrealized gains and losses, reaches \$100 million. After the fund~~  
24 ~~balance reaches \$100 million, all net earnings, excluding unrealized gains and losses, and all receipts may be~~  
25 ~~appropriated by the legislature and expended, provided that the fund balance, excluding unrealized gains and~~  
26 ~~losses, may never be less than \$100 million.~~

27 ~~—— (2) (a) At the beginning of each fiscal year, there is allocated from the interest income of the resource~~  
28 ~~indemnity trust fund:~~

29 ~~—— (i) \$2 million to be deposited into the renewable resource grant and loan program water adjudication~~  
30 ~~state special revenue account, created by 85-1-604 [section 3], for the purpose of making grants funding water~~

~~right claims examination by the department of natural resources and conservation;~~

~~———— (ii) \$1.5 million to be deposited into the reclamation and development grants special revenue account, created by 90-2-1104, for the purpose of making grants; and~~

~~———— (iii) \$300,000 to be deposited into the ground water assessment account created by 85-2-905.~~

~~———— (b) At the beginning of each biennium, there is allocated from the interest income of the resource indemnity trust fund:~~

~~———— (i) an amount not to exceed \$175,000 to the environmental contingency account pursuant to the conditions of 75-1-1101;~~

~~———— (ii) an amount not to exceed \$50,000 to the oil and gas production damage mitigation account pursuant to the conditions of 82-11-161; and~~

~~———— (iii) \$500,000 to be deposited into the water storage state special revenue account created by 85-1-631.~~

~~———— (c) The remainder of the interest income is allocated as follows:~~

~~———— (i) Thirty percent of the interest income of the resource indemnity trust fund must be allocated to the renewable resource grant and loan program state special revenue account created by 85-1-604.~~

~~———— (ii) Twenty-six percent of the interest income of the resource indemnity trust fund must be allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.~~

~~———— (iii) Thirty-five percent of the interest income from the resource indemnity trust fund must be allocated to the reclamation and development grants account provided for in 90-2-1104.~~

~~———— (iv) Nine percent of the interest income of the resource indemnity trust fund must be allocated to the environmental quality protection fund provided for in 75-10-704.~~

~~———— (3) Any formal budget document prepared by the legislature or the executive branch that proposes to appropriate funds other than as provided for by the allocations in subsection (2) must specify the amount of money from each allocation that is proposed to be diverted and the proposed use of the diverted funds. A formal budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced bill, or a bill developed during the legislative appropriation process or otherwise during a legislative session."~~

**NEW SECTION. Section 4. Codification instruction.** [Sections 1 through 4 3] are intended to be codified as an integral part of Title 85, chapter 2, part 2, and the provisions of Title 85, chapter 2, part 2, apply to [sections 1 through 4 3].

1 COORDINATION SECTION. SECTION 5. COORDINATION INSTRUCTION. IF HOUSE BILL NO. 22 IS PASSED  
2 AND APPROVED, [THIS ACT] IS VOID.

3

4 NEW SECTION. **Section 6. Effective date.** [This act] is effective July 1, 2005.

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6 NEW SECTION. **Section 7. Termination.** [This act] terminates June 30, 2015.

7 - END -